

**INTERNATIONAL JOURNAL OF LAW**  
**MANAGEMENT & HUMANITIES**

**[ISSN 2581-5369]**

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**Volume 4 | Issue 4**

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**2021**

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# Cyber Bullying and Online Freedom of Speech and Expression in India

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## ABSTRACT

*“Give me the liberty to know, to utter, and to argue freely according to conscience, above all liberties”*

*The Internet is one of the greatest creations and not only provides everyone in the world with instant access but also endless supply of knowledge and entertainment. With just a click away information is made available to the society. Not only the information even the connections of one individual or a group to another has become easy and convenient. Via internet one can learn about almost any topic and not only that the opinions and can also be easily shared from one end to the another. Connectivity, communication and sharing are hence the most important advantages of the technology advancement.*

*However as we learned in schools excess of everything is bad and like a coin internet also has two sides to it. The first being the positive advancement, and second being the misuse of that positive advancement. There is no doubt that the internet these days has made life easier but is also reflecting an unpleasant side to its existence as well.*

*Technological advancements gave rise to certain foreseeable cyber offences too, such as cyber stalking, cyber bullying, online banking frauds etc.*

*But then before internet advancements, our country provided us with a fundamental right to express our thoughts, expressions freely. The freedom of speech and expression, the right to speak and express one's thoughts and beliefs freely by way of words, pictures, gestures or any other acts.*

*The question which arises here is whether this fundamental right is being misused in today's world where the internet has become an easily accessible podium for sharing of information.*

**Keywords:** *Cyber Bullying, Freedom of Speech & Expression, Internet, Online Free speech, Internet Censorship, Cyberspace*

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## I. WHAT IS CYBER BULLYING?

To understand the concept of cyber bullying, first let's deal with some recent cases of it –

- 1) A kid was trolled for selling fish after college hours.<sup>2</sup>
- 2) In Kerala, an 18-yr-old law student received threats on Facebook for writing a poem on menstruation<sup>3</sup>
- 3) The fashion of confession pages on Facebook, where students could anonymously confess and bully others.
- 4) The increase in suicides among teenagers due to the Blue Whale game.<sup>4</sup>
- 5) The anonymous feedback websites such as Sarahah, ask.fm and sayat.me had taken over the internet.<sup>5</sup>
- 6) Activist receiving death, rape and acid attacks threats online, on almost every day for voicing their opinion.<sup>6</sup>
- 7) There have been increasing cases of cyber bullying on Instagram. Posting embarrassing pictures of a person, insulting hash tags or comments, creating fake profiles are few cases of cyber bullying on Instagram.<sup>7</sup>

The origins of these incidents can be traced to a new channel of social-networking sites. The sites make it easier for the people to engage in cyber-bullying that can easily harm the society. These cases however are only the tip of the iceberg

But then what does cyber bullying actually mean?

*“The meaning of cyber bullying is simple – the act of bullying which can happen on a physical space being taken to the cyber space. The objective is the same - to threaten someone into*

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<sup>2</sup> “Hanan Hamid trolled”, <https://www.firstpost.com/india/story-of-kerala-college-student-hanan-hamid-selling-fish-goes-viral-union-minister-k-alphons-defends-her-from-trolls-4831741.html>, (Last accessed on 10<sup>th</sup> August 2018)

<sup>3</sup> “Kerala: 18-yr-old law student receives threats”, <https://www.firstpost.com/india/kerala-18-yr-old-law-student-receives-threats-over-facebook-poem-on-menstruation-files-complaint-4366299.html> (Last accessed on 10<sup>th</sup> August 2018)

<sup>4</sup> THE GOVERNMENT NEEDS TO APPROACH BLUE WHALE AND OTHER INTERNET INDUCED SUICIDES DIFFERENTLY — SOME SUGGESTIONS, Available at, <https://www.firstpost.com/tech/news-analysis/the-government-needs-to-approach-blue-whale-and-other-internet-induced-suicides-differently-some-suggestions-3998153.html> (Last accessed on 10<sup>th</sup> August 2018)

<sup>5</sup> “Sarahah is a double-edged sword that promotes a cavalier attitude about online abuse” Available at, <https://www.firstpost.com/india/sarahah-is-a-double-edged-sword-that-promotes-a-cavalier-attitude-about-online-abuse-3933463.html> (Last accessed on 10<sup>th</sup> August 2018)

<sup>6</sup> *Ibid.*

<sup>7</sup> Sameer Hinduja, “Cyberbullying on Instagram”, Available at <http://cyberbullying.us/cyberbullying-oninstagram>. (Last accessed on 12<sup>th</sup> August 2018)

*doing or not doing something, but the motives can differ.*”<sup>8</sup>

The bully has now crossed the physical barriers and has entered the virtual world.

According to an initiative started by the government of United States of America<sup>9</sup> “Cyberbullying is bullying that takes place over digital devices like cell phones, computers, and tablets. Cyberbullying can occur through SMS, Text, and apps, or online in social media, forums, or gaming where people can view, participate in, or share content. Cyberbullying includes sending, posting, or sharing negative, harmful, false, or mean content about someone else. It can include sharing personal or private information about someone else causing embarrassment or humiliation. Some cyberbullying crosses the line into unlawful or criminal behavior”<sup>10</sup>

Like any other form of bullying, cyber-bullying also leads to<sup>11</sup> depression, unwillingness to attend school, self-esteem problems and in extreme cases, it can even lead to substance abuse, or suicide.

The aim of the government here while curbing cyber bullying should also be on rehabilitation on the victims because cyber bullying has a direct impact on the mindset, self esteem of the people. The physical harm might not be greater but the psychological and emotional trauma caused at times becomes irreparable.

### **Legal Issues regarding Cyber Bullying**

India is the third most affected country by the problem of cyberbullying.<sup>12</sup>

With the prevalence of social media and digital forums, comments, photos, posts, and content shared by individuals can often be viewed by strangers as well as acquaintances. The content an individual shares online, both their personal content as well as any negative, mean, or hurtful content, creates a kind of permanent public record of their views, activities, and behaviour. This public record can be thought of as an online reputation, which may be accessible to

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<sup>8</sup> “What is Cyber Bullying”, Available at, <https://kidshealth.org/en/teens/cyberbullying.html> (Last accessed on 12<sup>th</sup> August 2018)

<sup>9</sup> “What is Cyber bullying”, Available at <https://www.stopbullying.gov/cyberbullying/what-is-it/index.html> (Last accessed on 12<sup>th</sup> August 2018)

<sup>10</sup> *Ibid.*

<sup>11</sup> Dr. Savita Srivastava, “Pessimistic Side of Information & Communication Technology: Cyber Bullying & Legislature Laws, International Journal of Advances in Computer Science and Technology” Available at <https://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.303.4996&rep=rep1&type=pdf> (Last accessed on 11<sup>th</sup> August 2018)

<sup>12</sup> T.E. Raja Simhan, “India ranks third in cyber bullying” <http://www.thehindubusinessline.com/industry-and-economy/infotech/india-ranks-third-in-cyberbullying/article3573592.ece>; India Today Online Indian kids worst victims of cyberbullying: Study <http://indiatoday.intoday.in/story/indian-kids-worst-victims-of-cyberbullying-study/1/169603.html>; 77% Indian parents aware of cyberbullying: Symantec [http://zeenews.india.com/news/net-news/77-indian-parents-aware-of-cyberbullyingsymantec\\_835008.html](http://zeenews.india.com/news/net-news/77-indian-parents-aware-of-cyberbullyingsymantec_835008.html) (Last accessed on 11<sup>th</sup> August 2018)

schools, employers, colleges, clubs, and others who may be researching an individual now or in the future. Cyberbullying can harm the online reputations of everyone involved not just the person being bullied, but those doing the bullying or participating in it. Cyberbullying has unique concerns in that it can be.<sup>13</sup> Cyber bullying is persistent, permanent and hard to notice by the authorities unless complained.

Any information, material, pictures, videos etc which is posted on the internet is permanent in nature, even if it has been deleted. By means of downloading and on some illegal sites they can be easily accessed.

Cyber bullying not just one single crime, it includes various under crimes in its ambit. Reports of invasion of privacy, blackmail and nuisance through circulating content online, all of which can very well fit into the scope of cyber-bullying, have been on the rise in cyber police wings.<sup>14</sup> Cyberspace is vast and is not associated with territorial jurisdictions. It is not necessary that bully or the bullied would belong to the same territory. And when the bully is reported the same may be subjected to foreign laws.

## II. FREEDOM OF SPEECH AND EXPRESSION

### *Meaning And Restrictions*

*“Every man has an undoubted right to lay what sentiments he pleases before the public.”*

Then Judge James Iredell, 1799<sup>15</sup>

The freedom of speech & expression has been characterized as the very life of civil liberty in the Constituent Assembly Debates.<sup>16</sup> Supreme Court has described this freedom as the “*ark of the covenant of democracy.*”<sup>17</sup>

Article 19(1)(a) of the Indian Constitution guarantees freedom of speech and expression to all its citizens. It states that “*All citizens shall have the right to freedom of speech and expression.*”<sup>18</sup> It means a citizen is free to express his opinion by either words or gestures, writing, signs, and even by way of silence.

In **Indian Express Newspapers v. Union of India & Ors**, The Supreme court observed that

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<sup>13</sup> Id Note at 14.

<sup>14</sup> Prasad Krishna, “Watch Out for Cyber Bullies” Available at <http://cis-india.org/news/watch-out-forcyber-bullies> (Last accessed on 11<sup>th</sup> August 2018)

<sup>15</sup> Case of Fries, 9 F. Cas. 826, 839 (C.C.D. Pa. 1799) (No. 5126) (quoting 4 WILLIAM BLACKSTONE, COMMENTARIES \*151)

<sup>16</sup> Constituent Assembly debates: official Report, (Delhi, 1946-1950), VII, p.18

<sup>17</sup> Bennett Coleman & Co. V. Union of India, AIR 1973 SC 106

<sup>18</sup> Article 19 (1) (a), The Constitution of India, 1950

*“The freedom of speech and expression not only includes liberty to propagate one's own views but also the right to promulgate or publish the views of others. Thus, it includes freedom of press also within its ambit This freedom therefore serves the purpose of helping persons to attain self-fulfillment, assisting for discovering the truth, strengthening the capacity of persons to participate in decision making and establishing a balance between social change and stability.”*<sup>19</sup>

The Hon'ble SC observed in **UOI v. Association for democratic Reforms**<sup>20</sup>, *“One sided information, disinformation, misinformation & non information, all equally create a uniformed citizenry which makes democracy a farce. Freedom of speech & expression includes right to impart & receive information which includes freedom to hold opinions.”*<sup>21</sup> In **S.P. Gupta v. UOI**<sup>22</sup>, it was held that *“the right to know, receive & impart information has been recognized within the right to freedom of speech & expression. A citizen has a fundamental right to use the best means of imparting & receiving information.”*<sup>23</sup>

In **Life Insurance Corporation of India & Union of India & Anr. v. Prof. Manubhai D Shah & Cinemark Foundation**<sup>24</sup>, *“the importance of freedom of expression & speech can be easily understood by the Preamble to the Constitution, which itself ensures to all citizens inter alia, liberty of thought, expression, belief, faith & worship. In a democratic body polity, public opinion, public perception & public criticism, are the fundamental pillars to guide & control the executive action &, if they are scuttled or fettered or bound by launching criminal prosecution, it would affect the growth of a healthy & matured democracy.”*<sup>25</sup>

But no right is absolute in nature and such is the case with freedom of speech and expression. Article 19(2) lays down reasonable restrictions that can be imposed by the State on the exercise this right in the interest of the public.<sup>26</sup>

### ***Online freedom of speech and expression***

*“We are the free speech wing of the free speech party.”*

- Alex Macgillivray, Then-General Counsel, Twitter, 2011<sup>27</sup>

<sup>19</sup> Indian Express Newspapers v. Union of India & Ors., [(1985) 1 SCC 641].

<sup>20</sup> Union of India v. Association for democratic Reforms (2002) 5 SCC 294

<sup>21</sup> *Ibid.*

<sup>22</sup> S.P. Gupta v. Union of India, 1981 Supp SCC 87

<sup>23</sup> *Ibid.*

<sup>24</sup> Life Insurance Corporation of India & Union of India & Anr. v. Prof. Manubhai D Shah & Cinemanrt Foundation A.I.R. 1993 S.C. 171.

<sup>25</sup> *Ibid.*

<sup>26</sup> Article 19 (2), The Constitution of India, 1950

<sup>27</sup> Emma Barnett, “Twitter Chief: We Will Protect Our Users from Government, TELEGRAPH” <http://www.telegraph.co.uk/technology/twitter/8833526/Twitter-chiefWe-will-protect-our-users-from->

To understand the concept of online free speech, let's first deal with some cases of it–

1. Police arrested two women for posting allegedly offensive and objectionable comments on Facebook about the propriety of shutting down the city of Mumbai after the death of a political leader. The police made the arrests under Section 66A of the Information Technology Act of 2000, Although the police later released the women and dismissed their prosecution, the incident invoked substantial media attention and criticism. The women then filed a petition, challenging the constitutional validity of Section 66A on the ground that it violates the right to freedom of expression. The Supreme Court of India in **Singhal v. Union of India**,<sup>28</sup> struck down the provision as being ultra vires of Articles 14, 21, 19(1)(a).<sup>29</sup>
2. Tanmay Bhat's depiction of Sachin Tendulkar and Lata Mangeshkar led to a clear outrage of the 'insensitive' portrayal of such legends. He even received various death threats online for the same.
3. And not to forget the innumerable twitter outrage on almost each and every issue these days which results in either police detention or public threats or harassment.

The above case studies give us two extreme situations wherein, one individual is just expressing his/ her opinion regarding something they do not agree with, whilst the other expressing the same opinion on the same platform but with lurid threats.

### III. STATUTORY APPROACH ON CYBER CRIME

Information is a buzz word today. It is essential to march along with the progressive trends in today's world. Technology savvy world with an increasing capacity for communicating, simplifying and storing information with amazing speed has put information at the core of development.<sup>30</sup>

There can be no democratic participation in decision making without transparency and sharing information. Social media has the power to reach the masses and distribute information, which in turn has resulted in everyone acting as a watchdog, scrutinizing the powerful and exposing mismanagement and corruption.<sup>31</sup>

The advent of social media has become a threat for the government. And therefore the

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Government.html. (Last accessed on 13<sup>th</sup> August 2018)

<sup>28</sup>Singhal v. Union of India (2013) 12 S.C.C. 73

<sup>29</sup> *Ibid.*

<sup>30</sup> Bal Mukund Vyas (2008), "Sharing of Information with citizens", All India Reporter (Journal Section), 2008, pp. 171-176, at 176

<sup>31</sup> *Ibid.*

governments across the world seek to censor the internet.

Cyber crimes such as invasion of privacy, defamation, racist remarks, stalking, harassment etc poses a major threat to the nation, and therefore state regulations to curb the same are highly necessary.

Although the Information Technology Act was in force since 2000, India did not police the cyber space with much vigour before the 2008 terrorist attack on Mumbai. After the attacks, the Information Technology Act, 2000 was amended to expand and strengthen the monitoring and censoring capacity of the Government. The cyber law of India now contains provisions relating to blocking of websites, monitoring and collecting internet traffic data, interception or decryption of such data, unhindered access to sensitive personal data, holding intermediaries viz. social media websites liable for hosting user-generated objectionable content, etc. In this backdrop, India has been considered as a country engaged in 'selective' Internet filtering.<sup>32</sup>

### **Indian Cyber Laws**

India does not have a specific legislation in regards to the threats posed by social media. However the following Indian laws can be used to seek redress in that regard.

#### ***The Information Technology Act, 2000***

- (a) **Section 43A**<sup>33</sup> provides that “*where a body corporate possessing, dealing or handling any sensitive personal data or information in a computer resource owned, controlled or operated by it, is negligent in implementing and maintaining reasonable security practices and procedures thereby causing wrongful loss or wrongful gain to any person, it shall be liable to pay damages by way of compensation to the affected person.*”<sup>34</sup>
- (b) **Sections 65, 66, 66A, 6C, 66D, 66E, 66F, 67, 67A and 67B**<sup>35</sup> penalized “*tampering with computer source code, committing computer related offences, sending offensive messages through communication services, identity theft, cheating by personation using computer resource, violation of privacy, cyber terrorism, publishing or transmitting obscene material in electronic form, material containing sexually explicit*

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<sup>32</sup> See Open Net Initiative Report on India. It describes India as a stable democracy with a strong tradition of press freedom, nevertheless continuing its regime of Internet filtering. Report is available at, <http://access.opennet.net/wp-content/uploads/2011/12/accesscontested-india.pdf>, (Last accessed on 16<sup>th</sup> August 2018)

<sup>33</sup> Section 43A, The Information Technology Act, 2000

<sup>34</sup> *Ibid.*

<sup>35</sup> Section 65-67B, The Information Technology Act, 2000



*act in electronic form, material depicting children in sexually explicit act in electronic form, respectively.”<sup>36</sup>*

- (c) **Section 69<sup>37</sup>** of the Act “*grants power to the Central or a State Government to issue directions for interception or monitoring or decryption of any information through any computer resource in the interest of the sovereignty or integrity of India, defence of India, security of the State, friendly relations with foreign States, public order, for preventing incitement to commission of any cognizable offence, for investigation of any offence.*”<sup>38</sup>
- (d) **Section 69A<sup>39</sup>** “*grants power to the Central Government to issue directions to block public access of nay information through any computer resource on similar grounds.*”<sup>40</sup>
- (e) **Section 69B<sup>41</sup>** “*grants power to the Central Government to issue directions to authorize any agency to monitor and collect traffic data or information through any computer resource for cyber security.*”<sup>42</sup>
- (f) If the provisions of **Sections 69, 69A and 69B<sup>43</sup>** are contravened then punishment will follow.
- (g) **Section 70B<sup>44</sup>** “*provides for an agency of the Government to be appointed by the Central Government called the Indian Computer Emergency Response Team, which shall serve as the national agency for performing functions relating to cyber security*”.
- (h) **Section 79<sup>45</sup>** “*provides for liability of intermediary. An intermediary shall not be liable for any third party information, data or communication link made available or hosted.*”

The Central Government has also enacted rules to give effect to various provisions of this Act which are as follows:

- 1) *The Information Technology (Procedure and Safeguards of Interception, Monitoring and Decryption of Information) Rules, 2009*

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<sup>36</sup> *Ibid.*

<sup>37</sup> Section 69, The Information Technology Act, 2000

<sup>38</sup> *Ibid*

<sup>39</sup> Section 69A, The Information Technology Act, 2000

<sup>40</sup> *Ibid.*

<sup>41</sup> Section 69B, The Information Technology Act, 2000

<sup>42</sup> *Ibid.*

<sup>43</sup> *Ibid.*

<sup>44</sup> Section 70B, The Information Technology Act, 2000

<sup>45</sup> Section 79, The Information Technology Act, 2000

- 2) *The Information Technology (Procedure and Safeguards for Blocking for Access of Information by Public) Rules, 2009*
- 3) *The Information Technology (Procedure and Safeguard for Monitoring and Collecting Traffic Data or Information) Rules, 2009*
- 4) *The Information Technology (Intermediaries Guidelines) Rules, 2011*
- 5) *The Information Technology (Reasonable Security Practices and Procedures and Sensitive Personal Data or Information) Rules, 2011*

### ***The Indian Penal Code, 1860***

The amendment of the Act in 2013 introduced new offences and also made cyber stalking as an offence.

- a) **Section 354A**<sup>46</sup> provides *punishment for sexual harassment, and the same would be applicable in the virtual world as well.*
- b) Under **Section 354C**<sup>47</sup>, *“a person who takes pictures of a woman, or watches her where she expects privacy or when she is indulged in some private activity and expects no one to be observing, shall be punished with imprisonment in between one year to three years and also liable to fine under first conviction. For the second or subsequent conviction there is imprisonment between the terms of three to seven years and also fine. Under this section, a cyber bully can be punished for taking pictures and can held liable under this section along with other sections if he transmits or publishes the same.”*
- c) **Section 354D**<sup>48</sup> provides punishment against stalking. *“If a man contacts a woman or attempts to even after her expressed disinterest, or monitors her activities on the internet, shall be liable for punishment of imprisonment up to three years and fine under first conviction. Under second or subsequent conviction, he shall be punished with imprisonment up to five years and fine.”*
- d) **Section 416**<sup>49</sup> defines cheating by pretending to be someone else and section 419 provides punishment for such cheating as imprisonment for up to three years, or fine, or with both.

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<sup>46</sup> Section 354A, The criminal amendment of the Act in 2013

<sup>47</sup> Section 354C, The criminal amendment of the Act in 2013

<sup>48</sup> Section 354D The criminal amendment of the Act in 2013

<sup>49</sup> Section 416, The Indian Penal Code, 1860

- e) **Section 500<sup>50</sup>** provides punishment for the person who publishes any false statement against another shall be imprisoned for up to two years or with fine, or both.

### **Drawbacks of Applying Statutory Approach to Cyber Law**

The laws to combat the cyber related issues exist in India as stated above. But then still, the problem of cyber bullying is increasing with time. The instances of the same has been increasing over the years and has reached an alarming situation leaving India on the third position in terms of cyber bullying cases across the globe.<sup>51</sup>

1) The Information Technology Act, 2000 deals with the remedies to prevent cyber bullying, without defining the term cyber bullying. The term in its ambit is very wide. For the laws to be more stringent, it is first necessary to define the ambit of the same.

if no clear definition of cyber bullying is introduced with a punishment, there are chances that many may criminals may get away in the absence of law and many would not be able to get fair justice in search of relevant sections to apply under.

2) Indian laws have been silent on the problem of victimization of cyber bullying. The laws only focus on curbing and combating the cyber crimes, and punishing the cyber criminals but while doing that the rehabilitation of victims have been ignored.

According to the studies, the teenagers or the school going children are the ones who are most vulnerable to cyber bullying, they are at that tender age where they lack emotional and mental stability, and therefore the laws must provide for their rehabilitation.

3) Let's consider a situation wherein a girl and a boy engage in a fight and decide to part their ways. The boy in this situation under the frustration shows certain screenshots of their private chats to his friend. However, here he is not sharing the pictures, but in lieu of his frustration he is just showing the pictures, and the friend in turn makes fun of the girl. In consequence of the embarrassment, the girl commits suicide.

Now under which provision of law will the boy be punished?

It is clearly not a case of defamation, stalking or harassment, and since the pictures have not been shared on the virtual world, so the IT Act, 2000 is also out of the question.

India does not have a specific legislation in regards to the threats posed by social media, the Information Technology act can be used to seek remedies, but however the act still lacks in

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<sup>50</sup> Section 500, The Indian Penal Code, 1860

<sup>51</sup> Pallavi Chattopadhyay, "Cyberbullying: Social Media's Darker Side", <http://www.dnaindia.com/lifestyle/report-cyberbullying-social-media-s-darker-side-1712080>. (Last accessed on 16<sup>th</sup> August 2018)

situations like these. And therefore these aspects need to be taken into consideration too.

4) The targets of cyber bullying are children who are of tender age and have no mental or emotional stability. The side effects of online bullying can be grave and the imprints can be long lasting. No kid would be able to recover from the suffering neither would be able to find any escape since anything on cyber space spreads too fast and to places. There is a need to understand the gravity of the consequences and possible consequences possible through various modes, and then to make law accordingly. A child has developing maturing and understanding capability. There are chances of him taking it personally and be offended of the same. The need is to cover the different scenarios. The need is for the stringent provisions in the act in regards to the cyber bullying among the children and the teenagers.

#### **IV. CYBER BULLYING & IT'S IMPACT ON FREEDOM OF SPEECH & EXPRESSION**

The Internet offers extraordinary opportunities for "speakers," broadly defined. Political candidates, cultural critics, corporate gadflies -- anyone who wants to express an opinion about anything can make their thoughts available to a world-wide audience far more easily than has ever been possible before. A large and growing group of Internet participants have seized that opportunity.<sup>52</sup>

Some observers find the resultant outpouring of speech exhilarating. They see in it nothing less than the revival of democracy and the restoration of community. Other observers find the amount -- and, above all, the *kind* of speech -- that the Internet has stimulated offensive or frightening. Pornography, hate speech, lurid threats -- these flourish alongside debates over the future of the Democratic Party and exchanges of views concerning flyfishing in Patagonia. This phenomenon has provoked various efforts to limit the kind of speech in which one may engage on the Internet or to develop systems to "filter out" the more offensive material.<sup>53</sup>

Cyber bullying as a threat to free Speech claims can be divided into essentially two primary lines of analysis. In situations where the conduct in question involved aggressive language and threats of violence and In cases where no true threat was alleged or found to exist but can still constitute as online bullying

Cyberbullying is the indirect way people now-a-days are using to express their negative feelings about one another. Before the internet, cell phones, texting, etc, bullying was done

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<sup>52</sup> William Fisher "Freedom of Expression on the Internet" available at <https://cyber.harvard.edu/ilaw/Speech/> (Last accessed on 18<sup>th</sup> August 2018)

<sup>53</sup>ibid

face to face and rumours were spread by word of mouth, however a new way has been found to abuse technology to get down and dirty and betray and belittle others. This form of harassment has taken bullying to the next level and now little work has to be done to have the whole world know how much they despise one another. The result to this kind of technical advancement is becoming detrimental to many lives.

Cyber bullies are often anonymous. Bullies are able to create anonymous emails or chat room names and threaten people without knowing who is really attacking them. By being able to hide their identity they are able to bully another person without worrying about outside factors. This gives them more power to bully because they do not have the pressure of other people knowing their identity.

## V. CONCLUSION & SUGGESTIONS

In 2011 some defamatory content was found on a social networking site and to prevent such online defamation, the Indian Government asked Google, Facebook, Microsoft, etc. to create a framework to pre-screen the data before it goes up on the website. The task mainly involved was to chalk out a way to ensure that such content is screened before it goes online. However, a major debate broke out on the matter and it was portrayed in a negative light. Kapil Sibal told media that the *“Government was not trying to censor the freedom of speech and expression online; it merely wanted to stop offensive material from being uploaded on social networking sites.”*<sup>54</sup> According to the social networking companies it was not possible to meet with the demand due the volume of user-generated content in India and that they cannot be responsible for determining what is or is not defamatory.

In the **Secretary, Ministry of Information and Broadcasting, Government of India and others vs. Cricket Association of Bengal and others**<sup>55</sup>, the Supreme Court held that *“for ensuring the free speech right of the citizens of this country, it is necessary that the citizens have the benefit of plurality of views and a range of opinions on all public issues. A successful democracy posits an aware citizenry. Diversity of opinions, views, ideas and ideologies is essential to enable the citizens to arrive at informed judgment on all issues touching them. This cannot be provided by a medium controlled by a monopoly- whether the monopoly is of the State or any other individual, group or organization.”*<sup>56</sup>

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<sup>54</sup> Censoring the Internet”, available at [http://barandbench.com/censoring\\_the\\_internet.html](http://barandbench.com/censoring_the_internet.html) (Last accessed on 18<sup>th</sup> August 2018)

<sup>55</sup> Secretary, Ministry of Information and Broadcasting, Government of India and others vs. Cricket Association of Bengal and others AIR 1995 SC 1236

<sup>56</sup> “Censoring the Internet”, available at [http://barandbench.com/censoring\\_the\\_internet.html](http://barandbench.com/censoring_the_internet.html), (Last accessed on 20<sup>th</sup> August 2018)

The limit of Internet censorship differs from one country to another. Wherein the democratic countries may have a moderate Internet censorship, other countries may restrict the access to information such as news and even restrain discussion among people.<sup>57</sup>

The Internet is without a doubt one of the most useful inventions of our time. However, it is a fact that many people have misused it for destructive reasons resulting in victimization of several people in the process. Thus, restrictions on internet are necessary but its execution should be done in a way that is fruitful or valuable and not detrimental or injurious.

According to Lawrence Lessig, the author of *Code and other Laws of Cyberspace*, a balance should be maintained between online freedom of speech and cyberspace. He also talks about the necessity of internet regulation, which needs to come from within. He further argues for a greater role of the government in the regulation of cyberspace.<sup>58</sup>

In the light of the above, it can be opined that rather than censoring the social media, its regulation is desirable in a way which maintains the rights of users and also protects that of the victims simultaneously.

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<sup>57</sup> Eric E. Schmidt and Jared Cohen, *The Future of Internet Freedom*, THE NEW YORK TIMES <https://www.nytimes.com/2014/03/12/opinion/the-future-of-internetfreedom.html> (Last accessed on 20<sup>th</sup> August 2018)

<sup>58</sup> Lawrence Lessig, “Code and Other laws of Cyberspace”, 1998 <https://web.cs.dal.ca/~abrodsky/7301/readings/Le04.pdf> (Last accessed on 11<sup>th</sup> August 2018)